First Nations Water Rights in British Columbia

A Historical Summary of the rights of the Tlowitsis-Mumtagila First Nation

DOC
BC
W324
D:F57T56
2000
c.3

WATER BC our vital resource
Ministry of Environment, Lands and Parks

British Columbia

LEGISLATIVE LIBRARY OF BRITISH COLUMBIA
3 3298 00236 2060

101-00551/

MINISTRY OF ENVIRONMENT, LANDS and PARKS
WATER MANAGEMENT BRANCH

FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA:

A Historical Summary of the rights of the Tlowitsis-Mumtagila First Nation

Research and writing by:	Diana Jolly
Edit by:	JOL Consulting
Review by:	Gary W. Robinson
Prepared for publication:	February, 2000

Canadian Cataloguing in Publication Data
Jolly, Diana.
First Nations water rights in British Columbia. A historical summary of the rights of the Tlowitsis-Mumtagila First Nation

ISBN 0-7726-4179-X

1. Water rights - British Columbia - Karlukwees Indian Reserve No. 1. 2. Kwakiutl Indians - British Columbia - Turnour Island Region - Government relations. I. JOL Consulting (Firm) II. Robinson, Gary W. III. British Columbia. Water Management Branch. IV. Title. V. Title: Historical summary of the rights of the Tlowitsis-Mumtagila First Nation.

KEB529.5.W3J657 2000 346.71104'32 C00-960097-3
KF8210.W38J657 2000

ACKNOWLEDGMENTS

The Ministry of Environment, Lands and Parks wishes to acknowledge three partners whose contributions were invaluable in the completion of the *Aboriginal Water Rights Report Series:*

The Ministry of Aboriginal Affairs, was a critical source of funding, support and direction for this project.

The U-Vic Geography Co-op Program, was instrumental in providing the staffing resources needed to undertake this challenging task. Through the services of June Whitmore and her office, the project benefited from the research, writing, editing and co-ordination of these outstanding students:

Jas Gill
Julie Steinhauer
Kelly Babcock
Daniella Mogus
Miranda Griffith
Christina Rocha
Rachel Abrams
Elizabeth Lee
Sara Cheevers

The services of Clover Point Cartographics Limited of Victoria, was responsible for the preparation of most of the map drawings, which form a valuable part of these documents.

In addition to these three key partners, I must acknowledge the valuable contributions of other Water Management staff, past and present, including Jack Farrell, Jim Mattison, Richard Penner, Diana Jolly, Greg Blaney, Gary Lucas and Kim Johnston.

The sheer numbers of First Nations groups' with histories of water rights made the completion of the Report Series seem, at times, prolonged. The determination, patience and vision of the partners was essential in the completion of the Series and is gratefully acknowledged.

Gary Robinson
Project Manager
Water Management Branch

TABLE OF CONTENTS

LOCATION	1
WATER ALLOCATIONS	2
HISTORY, CURRENT STATUS, AND NOTES	2
KARLUKWEES #1	2
Karlu Creek	2
History	2
Current Status	2
Notes	2
OTHER INFORMATION	3
Alternate Water Sources	3
Groundwater Records	3
Municipal Water Sources	3

APPENDICES:

TAB NO.

1. TABLE: Summary of Water Rights Records for the Tlowitsis-Mumtagila Band.

2. LICENCE AND PLAT (Conditional Water Licence 24644).

3. STREAM REGISTER REPORT (Karlu Creek).

4. MAP: 1) Tlowitsis-Mumtagila Reserves and area.
   i) Map of Karlukwees #1

FIRST NATIONS WATER RIGHTS REPORT

BAND: Tlowitsis-Mumtagila

ADDRESS: P.O. Box 150, Alert Bay, B.C., V0N 1A0

CHIEF: John Smith

PHONE: 974-5501 **FAX:** 974-5904

AFFILIATION: Musgamagw Tsawataineuk Tribal Council

LOCATION:

The Tlowitsis-Mumtagila Band occupies eleven reserves at the north end of Vancouver Island and on islands across Johnstone Strait, near Sayward. These reserves are:

Aglakumna-la 2	Aglakumna 4A	Coffin Island 3
Etsekin 1	Hanatsa 6	Haylahte 3
Karlukwees 1	Keecekiltum 2	Pawala 5
Port Neville 4	Small Island 4	

The only reserve with a record of water allocations is Karlukwees 1. This 10.8-hectare reserve is located at the southwest end of Turnour Island.

Located on northern Vancouver Island and on islands off the northeast coast of Vancouver Island, these reserves sit at elevations ranging from sea level to 500 feet above sea level, and experience a climate ranging from an average daily temperature of 0 to 5 degrees centigrade in January to 16 degrees centigrade in July. The average annual rainfall for this area is 100 to 250 centimetres.

The most recent population figures from the Ministry of Finance show the Tlowitsis-Mumtagila Band to have a population of 3 persons living on reserve as registered members. It's total population, including registered and non-registered members living on-reserve, on crown land and off-reserve is 293.

Water courses of significance include:

- Karlu Creek, which flows south, through the eastern section of Karlukwees 1.

WATER ALLOCATIONS:

There is no record of any allocations of water made by the Reserve Commission with respect to the Tlowitsis-Mumtagila Band. Similarly, there is no record of any allocations by an Order in Council of the Lieutenant Governor in Council, nor any orders of the Board of Investigation.

However, water rights of the Tlowitsis-Mumtagila Band have been recorded or affected by one action of government over the years:

1) Granting of water licences from Federal Government application for licences for the use of water on reserves.

HISTORY, CURRENT STATUS, AND NOTES:

The history of water rights, the current status of rights and notes for the Tlowitsis-Mumtagila Band with respect Karlu Creek are as follows:

KARLUKWEES #1

Karlu Creek

History:

Mar 2, 1959 The Comptroller of Water Rights issued Conditional Water Licence 24644 to the Director of Indian Affairs in accordance with an application filed by the same office. This licence was given a date of precedence of March 25, 1957 and authorized the diversion of 10,000 gallons of water a day from Karlu Creek for domestic purpose on Indian Reserve No. 1, Karlu Kwees, Turnour Island, Range 1, Coast District.

Current Status:

Conditional Water Licence 24644, in the name of the Tlowitsis-Mumtagila Band is the only active licence on Karlu Creek. There is no recent information on file with respect to the current exercise of rights under this licence.

Notes:

1. Under current licensing practices Conditional Water Licence 24644 would be issued for waterworks purposes. The amendment of this licence would allow for the designation of the Karlu Creek drainage area as a Community Watershed under the Forest Practices Code.

OTHER INFORMATION:

Alternate Water Sources:

i) Groundwater Records:

Review of records of the Groundwater Section finds no evidence of any wells on the Tlowitsis-Mumtagila Band's reserves. However, as provision of this information is voluntary, it can not be assumed to be complete.

ii) Municipal Water Sources:

At this time the potential for water supply from a municipality is limited as there are no municipal water systems in the proximity of the Tlowitsis-Mumtagila Reserves.

Summary of Water Rights Record								
Tlowitsis-Mumtagila First Nation								
Water Source	Priority Date	Reserve Name	File No.	Document Type	Status	Superceded By	Licence PUC/MOD & OIC Allotments	Comments
Karlu Creek	1957/03/25	Karlukwees #1	0215431	C 24644	Current		10,000 GD/Domestic	Under current licencing practices CL24644 would be issued for waterworks purposes. The amendment of this licence would allow for the designation of the Karlu Creek Drainage area as a Community Watershed under the Forest Practices Code.

W.R.B. 13—0

PROVINCE OF BRITISH COLUMBIA

Water Rights Branch

DEPARTMENT OF LANDS AND FORESTS

CONDITIONAL WATER LICENCE

Director of Indian Affairs, of Ottawa, Ontario,

is/are hereby authorized to divert and use water as follows:—

(a) The source (s) of the water-supply is/are Karlu Creek.

(b) The point (s) of diversion is/are located as shown on the attached plan.

(c) The date from which this licence shall have precedence is 25th March, 1957.

(d) The purpose for which the water is to be used is domestic.

(e) The maximum quantity of water which may be diverted is 10,000 gallons a day, and such additional quantity as the Engineer may from time to time determine should be allowed for losses.

(f) The period of the year during which the water may be used is the whole year.

(g) The land upon which the water is to be used and to which this licence is appurtenant is Indian Reserve No. 1, Karlu Kwees, Turnour Island, Range 1, Coast District.

(h) The works authorized to be constructed are diversion dam and pipe, and they shall be located approximately as shown on the attached plan.

(i) The construction of the said works shall be commenced on or before the 31st day of May, 1959, and shall be completed and the water beneficially used on or before the 31st day of December, 1961.

Ref. ENTERED ON Map No. 92 L/NE (1-9) By A.L.

R. M. Paget,
Comptroller of Water Rights.

File No. 0215431 Date issued 2nd March, 1959. Licence No. 24644

8

British Columbia

To accompany Conditional Licence No. 24644

NANAIMO ~~VANCOUVER~~ WATER DISTRICT

Scale: 1320 Feet to 1 Inch

N

TRUE NORTH

R. 1 COAST LAND DISTRICT

L. 493

TURNOUR ISLAND

BLK. 3

Point of Diversion

Ref. Map 92 L/NE (A-4)

Kaeluk Kwaan Lot 1

BEWARE PASSAGE

LEGEND

Point of Diversion O

Pipe —·—

The boundaries of the land to which this licence is appurtenant are shown thus: ———

EXHIBIT "A"

Signature A. Bagot

Date 2ND March 1959

C.L. 24644

File 0215431

Coast Precinct

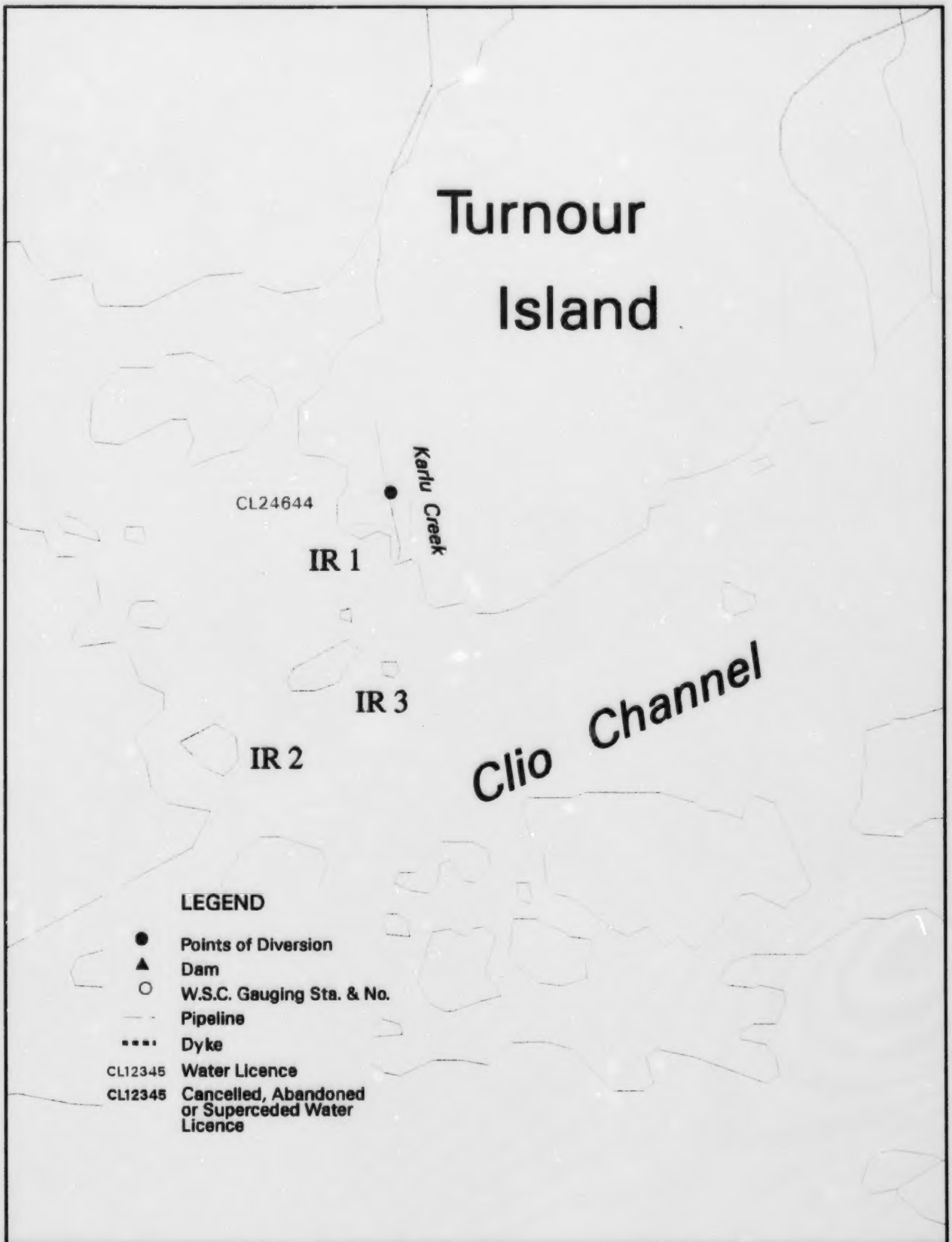
Stream Register Report Water Licence Information System

Report Requested By : DJOLLY
Date Report Requested : 1996/07/18 16:11
Report Sorted By : Source Gazetted - Priority Date - Licence Number
Selection Criteria
START POINT : FD31536 - 92L/NE(9-d) AA
END POINT : SO16140 - Earlu Creek

Stream Register Report | Water Licence Information System | DATE: 1996/07/18 TIME: 16:11 PAGE: 001

Priority YYYY/MM/DD	Licence Number	File Number	Appurtenancy	Licensee	POC	Quantity/Units	Term Start	Term End	Licence Comments	Process Status
Source	WR Map	POD	RED POD Comments						Prec	
1957/03/25	C024644	0215431	IR # 1 TURNOUR I COAST DIST	TLOWITIS-MUNTAGILA INDIAN BAND 978-637-7103 217 540 ROCHESTER AVE COQUITLAM BC V3K2V1	DOM	10,000.00 GD	Jan 01	Dec 31		
Earlu Creek	WR92L/NE(9-d)	AA	N						17B NAN - SAYWARD	

---------- Total of 1 Licence Reported ----------



TLOWITSIS-MUMTAGILA FIRST NATION

Scale: 1 : 25,000

Ministry of Environment, Lands & Parks | Date: February 2000 | Environment & Lands Division